

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Appellant/Applicant : Ipsen Pharma S.A.S.  
 U.S. Serial No. : 79/051,185  
 Mark : **SMECTA and Design**  
 Int'l Class : 5  
 Filing Date : January 14, 2008  
 Appeal Filed : June 2, 2009  
 Brief Due : August 1, 2009

745 Fifth Avenue  
 New York, New York 10151

**FIRST CLASS MAIL**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: **United States Patent and Trademark Office, Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, Va 22313-1451** on June 5, 2009

Marilyn Matthes Brogan, Reg. No. 31,223

\_\_\_\_\_  
 Name of Applicant, Assignee or Registered Representative

\_\_\_\_\_  
 Signature

June 5, 2009

\_\_\_\_\_  
 Date of Signature

**MOTION FOR SUSPENSION OF EX PARTE APPEAL**  
**UNDER RULE 1213 (3)**

Commissioner of Trademarks  
 P.O. Box 1451  
 Alexandria, VA 22313-1451

Attention : Trademark Trial and Appeal Board

Sir:



**06-10-2009**

U.S. Patent & Trademark Office Form 1-1317

On June 2, 2009, Applicant filed a Notice of Appeal and requisite appeal fee in this application. By paper dated June 2, 2009, the Trademark Trial and Appeal Board acknowledged

receipt of same, and initiated the appeal and accorded Applicant until August 1, 2009 in which to file its Appeal Brief.

At this time, however, pursuant to Rule 1213 (3) of the TTAB Manual of Procedure (TBMP), Applicant respectfully requests suspension of this appeal until October 23, 2010, or until such time deemed appropriate by the Board, based upon the good cause and reasons set forth herein.

Specifically, the only remaining issue in this application concerns the citation of a third party registration for the mark **SMECTA**, U.S. Registration Number 2,825,847 registered March 23, 2004; this registration was cited against the instant application as a reference under Section 2(d) of the Act. Since the cited registration issued March 23, 2004, the registrant's affidavit under Section 8 is due in that registration between **March 23, 2009** and **March 23, 2010**, and taking into account the six month grace period, it is due by absolutely no later than **September 23, 2010**. At present, which time is now subsequent to the March 23, 2009 fifth anniversary of the issue date of the registration, **no** affidavit of use has been filed, as shown by a review of the USPTO TARR database (see attached printout).

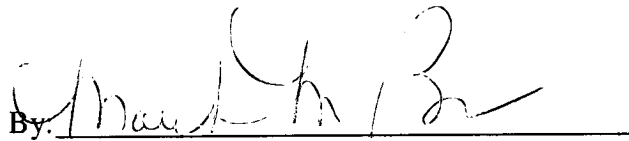
Therefore, the instant request for suspension is made in accordance with TBMP Section 1213(3), pending determination of whether the cited registration will continue in existence or will instead be cancelled or expire. Since this suspension is requested at such time that the Board will necessarily act on it **after** the fifth anniversary of the issue date of the registration, (i.e. **after March 23, 2009**), it is respectfully requested that the Board grant this request and suspend this appeal in accordance with TBMP Section 1213(3).

Since good cause exists for the requested suspension, and since this request is made in accordance with the requirements of TBMP 1213(3), which requirements are fully met by the instant circumstances, Applicant respectfully requests that the suspension be granted until October 23, 2010, i.e. one month subsequent to the expiration of the grace period for filing the affidavit of use in the cited registration, or until such time as the Board deems appropriate.

It is believe that no fee should be required by reason of the instant submission; however,  
please charge any fee required or charge any overpayment to Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicant/Appellant

By. 

Marilyn Matthes Brogan  
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**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2009-06-05 12:58:34 ET**

**Serial Number:** 76365917 Assignment Information      Trademark Document Retrieval

**Registration Number:** 2825847

**Mark (words only):** SMECTA

**Standard Character claim:** No

**Current Status:** Registered.

**Date of Status:** 2004-03-23

**Filing Date:** 2002-01-29

**Transformed into a National Application:** No

**Registration Date:** 2004-03-23

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 105

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location:** 900 -File Repository (Franconia)

**Date In Location:** 2004-03-29

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

1. Zen'Yu Natural Products Ltd.

**Address:**

Zen'Yu Natural Products Ltd.  
5543 275th Street  
Langley, British Columbia V4W 3X9  
Canada

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Canada

**GOODS AND/OR SERVICES**

**International Class:** 005

**Class Status:** Active

Mucus protein agent used to relieve diarrhea and to coat the digestive tract for humans

**Basis:** 1(a)

**First Use Date:** 2002-02-15

**First Use in Commerce Date:** 2002-04-30

### ADDITIONAL INFORMATION

(NOT AVAILABLE)

### MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

### PROSECUTION HISTORY

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

- 2004-03-23 - Registered - Principal Register
- 2003-12-19 - Allowed for Registration - Principal Register (SOU accepted)
- 2003-12-19 - Assigned To Examiner
- 2003-12-18 - Case File In TICRS
- 2003-12-05 - Statement of use processing complete
- 2003-11-26 - Amendment to Use filed
- 2003-11-26 - TEAS Statement of Use Received
- 2003-05-27 - Noa Mailed - SOU Required From Applicant
- 2003-03-04 - Published for opposition
- 2003-02-12 - Notice of publication
- 2002-12-30 - Section 44(d) claim - Deleted
- 2002-12-26 - Approved for Pub - Principal Register (Initial exam)
- 2002-12-23 - Examiner's amendment mailed
- 2002-10-24 - Communication received from applicant
- 2002-10-24 - TEAS Response to Office Action Received
- 2002-05-03 - Non-final action mailed

2002-04-22 - Assigned To Examiner

**ATTORNEY/CORRESPONDENT INFORMATION**

**Attorney of Record**

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